



Stakeholder Submission to the Universal Periodic Review of the Italian Republic

Transmitted by Habitat International Coalition, NGO in Consultative Status with United Nations ECOSOC (Special Status, 1993), in cooperation with Associazioni Inquilini e Abitanti (ASIA), part of the Unione Sindacale di Base (USB), Italy.

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1. This report is submitted jointly by the Associazioni Inquilini e Abitanti (ASIA), part of the Unione Sindacale di Base (USB), and the Habitat International Coalition (HIC) in contribution to the second Universal Periodic Review (UPR) of Italy's fulfillment of its human rights obligations.
2. This report offers presents facts, human rights analysis and arising from recommendations from the first UPR report (February 2010), resulting commitments by the Italian government and other human rights treaty obligations. This report focuses on the Italian Republic's respect, protection and fulfillment of rights enshrined in the International Covenant of Economic, Social and Cultural Rights (ICESR), particularly article 11 enshrining "the right of everyone to an adequate standard of living...including adequate housing, and to the continuous improvement of living conditions."
3. The present state of the right to adequate housing in Italy was largely ignored in the previous UPR round, except for the forced evictions of Roma and Sinti communities, for which gross violations no reported reparation has taken place since 2010, despite applicable international norms.¹ While this issue clearly is related to article 11 of ICESR, this report focuses rather on the state of access to affordable adequate housing as a national issue affecting a large portion of the population, including also the Roma and Sinti communities.

Legal framework for the right to housing

¹ "Forced evictions," Commission on Human Rights resolution 1993/77, 10 March 1993, "Affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing," para. 1; "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, 21 March 2006, at: <http://www.un.org/Docs/asp/ws.asp?m=A/RES/60/147>.

4. Italy ratified ICESCR on 15 September 1978, which guarantees the right of everyone to adequate housing as a component of the human right continuous improvement of living conditions (article 11). This right also is enshrined in other instruments such as the Universal Declaration of Human Rights (article 25), as well as the Convention on the Elimination of Racial Discrimination (article 5(e)(iii)), the Convention on the Elimination of the Discrimination of Women (article 14(2)(h)) and the Convention on the Rights of the Child (article 27.3), which treaties Italy has ratified on 04 February 1976, 10 July 1985 and 05 October 1991, respectively.
5. Additionally, Italy is party to the European Social Charter, which guarantees the right to housing (article 31) and, specifically, the right to freedom from forced evictions.²
6. Unlike most of the other European Countries, the Italian Constitution does not contain specific provisions for the right to housing; however, it does recognize the right to private property, and the encouragement of acquiring private property: Article 47 states “[the State] promotes the access of popular savings to the ownership of housing, to directly cultivated property and indirect investment in the shares of the large production complexes of the country.” Despite the orientation toward private ownership, the Constitution does provide for the social function of all property, with article 42 stating: “Private property is recognized and guaranteed by law, which prescribes the ways it is acquired, enjoyed and its limits in *order to ensure its social function and to make it accessible to all.*”³
7. The state formally recognizes the right to adequate housing only for families deprived of housing in case of natural disasters.⁴

Lack of affordable housing

8. Under Italy’s last periodic review, the Committee of Economic, Social and Cultural Rights (CESCR) expressed concern over “the continuing increase in rents and the privatization of housing and about the scarcity of adequate social housing units for low-income families, while the social fund established to provide housing assistance has been reduced.”⁵ “That December 2004 observation preceded the economic crisis that has led to

² Art.31 §2 and E of the Revised Charter. The European Committee on Social Rights (CSR) has interpreted article 31, defining fundamental notions, such as adequate housing, homeless persons, forced eviction and housing affordability. Conclusions of the Committee on Social Rights in *ERRC v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 24; Conclusions 2005, Lithuania, Norway, Slovenia and Sweden. See European Committee of Social Rights: Conclusions XIX-4 (2011) : Denmark., at: http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/DenmarkXIX4_en.pdf

³ Emphasis added

⁴ Decision No. 5950/2002 State Council. See also European Committee of Social Rights, *European Social Charter (revised) - Conclusions 2007*, Volume 2. Council of Europe, 2007, p. 205, at: http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/conclusionsyear_EN.asp.

⁵ *Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant*, “Concluding Observations of the Committee on Economic, Social and Cultural Rights: Italy, November 2004 E/C.12/1/Add.103, para. 26, <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.103.En?Opendocument>

even further decline in public support and services across Europe, including in Italy.

9. The situation that “concerned” the CESCR indeed has worsened, due to an affordable-housing deficit. Social housing is available for the most-vulnerable populations, and few programs to assist poor households in accessing market value rents.⁶ More vulnerable and greater numbers of people actually are evicted from their housing.
10. The present rental market also forecloses affordability, an indispensable element of adequate housing as a human right. The case of Italy shows how housing rights violations, even gross violations, rise from increasing unaffordability.⁷
11. The neglect of this one element, as in Italy, undermines adequacy on most counts.

Housing cost as a portion of salary and unreasonable rent increases

12. International standards of policy and practice consider affordable housing (composite costs) to be no more than 25–30% of a household’s income (area median gross household income).⁸
13. In Italy, 25% of families in rented accommodation earn less than €10,000 annually; they spend more than 33% for rent alone. The 40% who annually earn €10,000–20,000 spend more than 25% of their income on rent.⁹ Additionally, rents have continued to increase an average of 50% in nationally, while salaries remain stable. In larger cities, this increase has

⁶ UN-HABITAT, *Forced Evictions: Global Crisis Global Solutions*, 2011, at: <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3187>

⁷ Committee on Economic Social and Cultural Rights, General Comment No. 4, *The right to housing* (sixth session, 1991), U.N. Doc. E/1992/23, annex III, para. 8(c), p. 114, at: <http://www1.umn.edu/humanrts/gencomm/epcomm4.htm>.

⁸ Emma Mulliner and Vida Maliene, "Austerity and reform to affordable housing policy," *Journal of Housing and the Built Environment*, Vol. 28, Issue 2 (2013), pp. 397–07, at: <http://link.springer.com/article/10.1007/s10901-012-9305-6>; David J. Hulchanski, "The concept of housing affordability: Six contemporary uses of the housing expenditure-to-income ration," *Housing Studies* Vol. 10, Issue 4 (October 1995), p. 471–91, at: http://www.urbancenter.utoronto.ca/pdfs/researchassociates/Hulchanski_Concept-H-Affd_H.pdf; Glen Bramley, "An affordability crisis in British housing: dimensions, causes and policy impact," *Housing Studies* Vol. 1 (1994), 103–24, at: <http://www.tandfonline.com/doi/abs/10.1080/02673039408720777#preview>; K. E. Hancock, "'Can pay? Won't pay?' or Economic Principles of 'Affordability,'" *Urban Studies*, Vol. 1 (1993), 127–45, at: <http://usj.sagepub.com/content/30/1/127.full.pdf>;

Ade Kearns, Affordability for housing association tenants: A key issue for British social housing policy," *Journal of Social Policy*, Vol. 21, No. 4 (September 1992), pp. 525–49, at: <http://eprints.gla.ac.uk/87992/1/87992.pdf>; Peter D. Linneman and Isaac F. Megbolugbe, Housing affordability: myth or reality? *Urban Studies*, Vol. 29, Nos. 3/4 (1992), pp. 369–92, at: <http://usj.sagepub.com/content/29/3-4/369.extract>.

⁹ Laura Pogliani, "Key Players in the Social and Affordable Housing Provision in Italy," 23rd European Network for Housing Research Conference, 5-8 July Toulouse, France, www.enhr2011.com/sites/default/files/Pogliani_WS20.pdf

reached 85%, with a drastic 200% increase in Rome and Milan, and some cases exceeding a 300% increase (plus service costs).¹⁰

14. While the demand for affordable rental housing has been highest for some identifiable groups, including single-parent households, immigrants. The lack of affordable options to meet growing needs finds low-income families paying up to 81–185% of household income toward rent. These groups are most likely to be unable to pay rent and most at risk for eviction.¹¹

Eviction rates for rent arrears

15. With the excessive increase in rents, the cost of rented housing has become too much for many families to bear. The main reason for evictions in Italy in the past ten years has been from owners expelling tenants for nonpayment of rent.¹² This indicates a clear lack of protection against unreasonable rent increases for many low- and middle-income families in Italy.

16. The Italian Interior Ministry has tracked national eviction rates over the past years. Those data show the reasons for eviction as landlord/lessor's need (*necessità del locatore*), end of lease (*finita locazione*) and nonpayment of rent (*morosità*); most evictions occur in provincial capitals/urban centers.

17. These data show that the number of evictions is generally high. However, more troubling is the fact that the vast majority of evictions have result from the inability to make rent payments. In 2011 of 63,846 evictions in 2011, 55,543 (87%) were due to *morosità*.¹³ and in 2012, this was the reason for approximately 89% of 67,790 evictions nationally.¹⁴ The ministry does not yet have complete data for 2013, but the available numbers from January–June 2013 record 38,869 evictions, of which 89% were due to *morosità*.¹⁵

18. This consistent percentage indicates a problem that has not been addressed properly within the Italian government, which has an obligation to ensure accessible and affordable housing, as indicated above. The absence of such a targeted national housing policy has compounded many issues for both low- and middle-income families, now unable to find adequate housing that matches household income.

¹⁰ Pogliani, 2011; *Lettera al Ministro Saccomanni*, ASIA-USB, 3 February 2014, at: <http://hlmn.org/img/documents/Lettera%20al%20ministro%20Saccomanni%20ASIA-USB%203%20febbraio%202014.pdf>; *Interpellanza 2/00094*, Lombardi, Movimento 5 Stelle, 13 June 2013, at: http://hlmn.org/img/documents/INTERPELLANZA_2-00094_CAMERA_on_Lombardi_13giu2013.pdf

¹¹ UN-HABITAT, 2011.

¹² UN-HABITAT, 2011.

¹³ Italian Interior Ministry Evictions Data 2011, at: <http://hlmn.org/img/documents/data%20ministro%20interni%20sfratti%202011.pdf>

¹⁴ Italian Interior Ministry Evictions Data 2012, at: <http://hlmn.org/img/documents/data%20ministro%20interni%20sfratti%202012.pdf>.

¹⁵ Italian Interior Ministry Evictions Data First Semester 2013, at: <http://hlmn.org/img/documents/data%20ministro%20interni%20sfratti%201st%20semestre%202013.pdf>

Homelessness

19. While many of the evictions in Italy occur within the scope of the law, often due to inability to make rent or mortgage payments, the government has an obligation to pursue solutions and protect the right to an adequate standard of living. However, human rights standards require that evictions not result in homelessness or render individuals vulnerable to violations of other human rights. “Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”¹⁶
20. National homelessness was assessed for the first time in 2011,¹⁷ revealing that over 47,000 people are homeless in Italy, and 6 out of 10 are foreigners. In most cases, in fact, it is foreign (59.4%), men (86.9%), who are less than 45 years (57.9%, the average is 42.2 years). The state has an obligation to also ensure adequate housing for particularly marginalized/vulnerable populations including those with disabilities, immigrants and refugees, ethnic and racial minorities, female-headed households, and other groups particularly affected. The high number of homeless foreigners should indicate a larger issue within the access and affordability of housing.
21. With the rate of evictions increasing for lack of payment and limited affordable options available, Italy must ensure that the persons facing evictions have alternatives and solutions.

Lack of social housing

22. The current housing stock across Italy is largely dominated by ownership (approximately 80%), while only 18% is rented to tenants; and of this portion only about one-quarter are social housing.¹⁸ The rate of housing ownership is generally higher in Italy than in other European countries.¹⁹ This minimal percentage of rental stock and public housing reflects some 50 years of policies that encourage home ownership and lack sufficient support for rental/affordable housing. Now, economically accessible housing does not keep pace with the demographic realities and housing needs within the State. For many families, purchasing a home is not possible. Since the early 1990s, the number of years of average family income necessary to purchase a home has increased nearly 60% from 4.2 years to 6.6.²⁰

¹⁶ Committee on Economic, Social, and Cultural Rights, *General Comment 7, Forced evictions, and the right to adequate housing* (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), para. 17, at: <http://www1.umn.edu/humanrts/gencomm/escgencom7.htm>

¹⁷ *Le Persone senza Dimora*, iStat, 2011, at: <http://www.istat.it/it/archivio/72163>

¹⁸ Pogliani, 2011.

¹⁹ Banca d'Italia, 2012

²⁰ Banca d'Italia, 2012

23. As mentioned above, Italy's legal framework emphasizes property ownership over rent options. Following in a similar vein are the lending and financing policies of many banks, which provide easy access to mortgages and financing mechanisms for home purchases. With the onset of the financial crisis many of these families, as in other countries across Europe, and in the United States, are unable to make housing payments. Presently, over 400,000 persons in Italy are under legal action from the banks because many were pressured into buying homes but now cannot afford to make payments.²¹
24. According to the European Federation of Public, Cooperative & Social housing (CECODHAS), 'social housing' should signify "the set of dwellings and services, actions and instruments addressed to those who are unable to meet their housing needs on the open market for economic reasons or due to a lack of appropriate options on the supply side." This definition ties clearly to the goal of any social housing program, which should be for all persons to have dignified social and living conditions and generally achieve a better standard and quality of life, which aligns with article 11 of the ICESR.
25. Although Italy does have social and public housing programs, they are severely lacking. Presently there are 800,000 public houses in Italy.²² Recent surveys reveal that approximately 1 million additional social housing units need to be built in order to meet needs.²³ Although demand is increasing, the public housing sector has reduced its productivity by some 37%.²⁴
26. Putting additional stress on the social housing sector is the lack of fiscal incentives. Public housing providers no longer have discounted VAT, and the rate has increased to 21%. Additionally, new legislation has allowed for municipalities to introduce local property tax to social housing providers, which was previously exempt.²⁵
27. Social or public housing, meaning structures or units subsidized by the state, are necessary in order to meet the needs of many families who are unable to access affordable housing on the free market.

Social security institutions/pension funds

28. The privatization of social security institution has in and of itself specific consequences, but in Italy this has allowed these previously public institutions to operate with little regulation. Many pensions funds/social security institutions utilize income from rented housing to fund pension schemes for workers. However, in past years in order to fill internal funding gaps, and with the reduction of controls. Many institutions have taken to

²¹ Mozione SEL Emergenza Abitativa ed enti Previdenziali, 17 lug 2013 non approvata 9 dic 2013

²² CECODHAS European Social Housing Observatory, *Research Briefing, Year 5, No. 2*, February 2012, at: <http://www.housingeurope.eu/publication/research-briefings>

²³ CECODHAS, 2012; Pogliani, 2011.

²⁴ CECODHAS, 2012.

²⁵ *Ibid.*

increasing rents of selling off property at unreasonably high cost for tenants.²⁶

29. The privatization of social security institutions began with the legislative decree no. 509 (30 June 1994), which gave the entities legal personality under private law although they continue to exist as nonprofit organizations; continuing with the legislative decree no. 104 (16 February 1996), as supplemented by Law no. 410 of 23 November 2001, which governs the activity of public social security institutions in the real-estate field, article 1, as well as paragraph 38 of law no. 243 (2004), law 122 (30 July 2010), law no. 214 (22 December 2011), and the European Directive 2004/18/EC.²⁷
30. The deregulation and privatization of social security entities have allowed these public institutions to operate as private, for-profit entities. The engagement real estate speculation has created problems for thousands of households across the state, as prices for housing is being set much higher than actual value in terms of size, quality (individual apartment and building itself), state of repair, etc., and often higher than the actual market value.
31. Parliament has convened many commissions on this topic, but no real change has been seen. On 9 December 2013, the *Camera dei Deputati* (Chamber of Deputies) of the Italian parliament approved a motion presented by the majority parties which obliges the government take serious measures to clarify the laws concerning how the social security entities purchase the real-estate and to protect the people with some sort of guarantees of the selling prices of the houses, to protect the welfare of the citizenry.²⁸
32. Although the government has formally intervened this speculation continues to cause high social alarm in all Italian cities. When buildings/units are sold current tenants are given the Right of first Refusal, however many tenants are unable to meet the high costs (as discussed previously). Many of these families who attempt to purchase often default on loans or payment, and evictions from homes sold in auctions is becoming increasingly common in Italy.²⁹ Approximately 12,000 housing units, for just one social security entity, I.N.P.S., have been unsold to tenants and consequently have been put up for auction, which will be grounds for immediate eviction.³⁰

²⁶ For complete listing of primary issues associated with these entities, please see the following reference provided by ASIA-USB: *Situazione Alloggiativa Degli Inquilini Degli enti Previdenziali, dei Fondi Immobiliari-Pensione- Assicurativi, della Regione Lazio e dell' Edilizia Agevolata*, 11 January 2014, at: http://hlrn.org/img/documents/Scheda%20Inquilinato%20ASIA_USB%2011gennaio2014.pdf

²⁷ For comprehensive list of relevant laws and legislation, please see *Mozione SEL emergenza abitativa ed enti previdenziali*, 17 lug 2013, non approvata 9 dic 2013 at: <http://hlrn.org/img/documents/Mozione%20SEL%20emergenza%20abitativa%20ed%20enti%20previdenziali%2017lug2013%20non%20approvata%209dic2013.pdf>

²⁸ *Mozioni no. 134*, 9 December 2013, Camera dei Deputati, at: <http://hlrn.org/img/documents/Mozioni%209%20dicembre%202013.pdf>

²⁹ UN-Habitat, 2011.

³⁰ *Lettera al Ministro Saccomanni*, 3 February 2014

Recommendations to the Italian Republic:

33. In order to meet the obligations outlined in article 11 of ICESCR and other international instruments, HIC-HLRN and ASIA propose the following recommendations to fulfill the right to adequate housing:
34. The Italian government must develop a national housing plan that meets the needs of the population, with specific attention to vulnerable groups. This plan should not create new structures and buildings, but rather utilize existing structures and spaces, including the unoccupied buildings held by the social security entities. Within this plan should be a revision of the public housing program, and the allocation of 1 million new public units nationally. Any new national housing plan must contain better oversight of regional and municipal governments in implementation and spending on housing programs.
35. The state must take legislative initiatives to clarify the regulatory framework in which privatized social security institutions operate, ensuring that procedures are carried out with uniformity and transparency.
36. The state must intervene to protect tenants, placing better oversight on the sales price of properties sold by social security entities and the extent of rent increase at the time of lease renewal.